

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

W.P. NO. 762 OF 1996

Ram Prasad Jaiswal
Partner

M/s Jaiswal Ispat, K.K. Road
Raipur and another

..... Petitioners

~~—Versus—~~

State of Madhya Pradesh and others Respondents

PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION
OF INDIA

1. Particulars of the Petitioners:

1. Ram Prasad Jaiswal
Partner
M/s Jaiswal Ispat
K.K. Road, Raipur (M.P)
2. M/s Jaiswal Ispat
K.K. Road, Raipur (M.P)

2. Particulars of the Respondents:

1. State of Madhya Pradesh
through Secretary
Commercial Tax Department
Govt. of Madhya Pradesh
Vallabh Bhawan, Bhopal
2. State Level Committee (Tax Benefit Section)
through Commissioner of Industries
Panchanan Building
New Market, Bhopal
3. Commissioner of Sales Tax
(Now Commissioner of Commercial Taxes)
Madhya Pradesh, Indore
4. General Manager
District Industries Centre
Raipur (M.P)
5. Assistant Commissioner of Commercial Tax
Raipur (M.P)



4. Particulars of the order against which the
petition is made:

- (i) Decision of the State Level Committee
dated 15.9.95 as communicated by the

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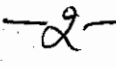
आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<u>10-11-2005</u> Shri Amrito Das, counsel for the petitioners. Shri Yashwant Singh Thakur, Govt. Advocate for the State/ respondents. Heard both the counsel. The petitioners have filed this petition with a prayer to quash the instruction of the Commissioner of Sales Tax dated 5-12-1989 (Annexure-P/12), decision of the State Level Committee dated 16-11-1995 (Annexure-P/9) whereby the petitioners have been refused to grant the eligibility certificate for exemption from Sales Tax and Entry Tax and assessment order (Annexure-P/10). Learned counsel for the petitioners submitted that vide order dated 5-12-1989 (Annexure-P/12) the Commissioner of Sales Tax, Madhya Pradesh has held that "The expression "Processing industry" in the condition specified against item No.2 (vii) of the Schedule to S.R.D. notification No.A-3-11-86 (74) ST-V dated 26-10-86 would not cover any such industrial unit where the processing undertaken by it does not lead to the manufacture of any goods within the meaning of the expression manufacture defined in Section 2 (j) of the Act. Learned counsel for both the parties agreed that this matter is squarely covered by the decision of the Apex Court in the matter of Ashirwad Ispat Udyog and others V. State Level Committee and others reported in (1999) 32 VKN 65. In this matter similar question was considered by the Hon'ble Apex Court and the Apex Court held that "Purchase of steel scraps and cutting them into strips of various sizes for use by rolling mills and foundries with help of shearing machines and	

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	glass cutting- Such process falls within special definition of 'manufacture' -MPGST Act, 1958, Sections 2 (j), 12 Notification No.A-3-11-86 (74)/ST-V, dated 16-10-86." Therefore, in view of the above judgment this petition deserves to be allowed. Accordingly, the petition is allowed and the order dated 5-12-1989 (Annexure-P/12), decision of the State Level Committee dated 16-11-1995 (Annexure-P/9) and assessment order (Annexure-P/10) passed by the Commissioner are quashed. Parties are entitled for certified copy of this order.	 Sd/- L.C.BHADOO Judge

Barve

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